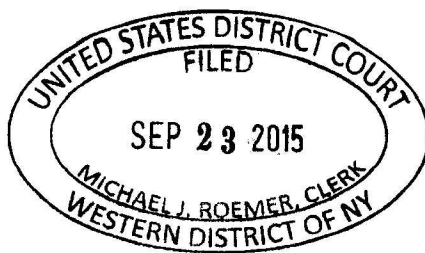


UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Plaintiff,

v.

**DECISION AND ORDER**

6:14-CR-6123 EAW

BRANDON CORREA,

Defendant.

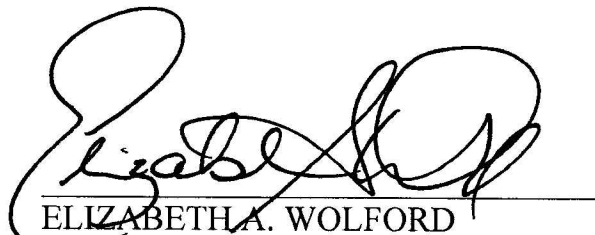
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This Court referred all pretrial matters in the case to United States Magistrate Judge Marian W. Payson pursuant to 28 U.S.C. §§ 636(b)(1)(A) & (B). (Dkt. 16). On July 30, 2015, Magistrate Judge Payson issued a Report and Recommendation recommending that Defendant's motion to dismiss be denied as moot. (Dkt. 58).

Pursuant to Fed. R. Crim. P. 59(b)(2) and 28 U.S.C. § 636(b)(1), the parties had 14 days after being served a copy of the Report and Recommendation to file objections. On August 18, 2015, the Court granted defense counsel's request for a 30-day extension of time to file objections to Magistrate Judge Payson's Report and Recommendation. (Dkt. 61). No objections were filed. The Court is not required to review *de novo* those portions of a report and recommendation to which objections were not filed. *United States v. Male Juvenile*, 121 F.3d 34, 38 (2d Cir. 1997) ("We have adopted the rule that failure to object timely to a magistrate judge's report may operate as a waiver of any further judicial review of the decision, as long as the parties receive clear notice of the consequences of their failure to object.").

The Court has reviewed the Report and Recommendation and the record of the July 30, 2015 hearing, and finds no reason to reject or modify the Report and Recommendation of Magistrate Judge Payson. Therefore, the Court accepts and adopts the Report and Recommendation. Because the Government has re-presented the charges contained in the second superseding indictment to the grand jury and instructed the grand jurors in accordance with the United States Supreme Court's decision in *United States v. Elonis*, 135 S. Ct. 2001 (2015), Defendant's motion to dismiss is denied as moot.

SO ORDERED.



ELIZABETH A. WOLFORD  
United States District Judge

Dated: September 23, 2015  
Rochester, New York